

NEW APPLICATION

ORIGINAL



0000091301

1 **GLIEGE LAW OFFICES, PLLC**

2 **P.O. Box 1388**

3 **Flagstaff, AZ 86002-1388**

4 **(928) 226-8333**

5 **(928) 606-5260 cell**

6 **John G. Gliege (#003644)**

7 **Attorney for Pine Strawberry Water Improvement District**

RECEIVED

2008 NOV 21 A 9:42

ARIZONA CORPORATION COMMISSION  
DOCKET CENTRAL

Arizona Corporation Commission

**DOCKETED**

**NOV 21 2008**

DOCKETED BY

ne

8 **BEFORE THE ARIZONA CORPORATION COMMISSION**

9 **IN THE MATTER OF THE APPLICATION**

10 **OF PINE STRAWBERRY WATER**

11 **IMPROVEMENT DISTRICT TO REVOKE**

12 **THE CERTIFICATES OF CONVENIENCE**

13 **AND NECESSITY OF PINE AND**

14 **STRAWBERRY WATER COMPANIES**

15 **PURSUANT TO A.R.S. §40-252**

DOCKET NO.

W-20640A-08-0582

W-03512A-08-0582

W-03513A-08-0582

APPLICATION FOR REVOCATION OF  
CERTIFICATES OF CONVENIENCE AND  
NECESSITIES OF PINE WATER  
COMPANY AND STRAWBERRY WATER  
COMPANY

16  
17 COMES NOW, Pine Strawberry Water Improvement District (PSWID), by and through its  
18 attorney undersigned, pursuant to *A.R.S. §40-252* and respectfully petitions this Honorable Commission  
19 to revoke the Certificates of Convenience and Necessity of Pine Water Company, Inc. (PWC) and  
20 Strawberry Water Company, Inc. (SWC) on the grounds and for the reasons set forth herein:

- 21 I. PSWID is a municipal corporation of the State of Arizona whose geographic boundaries  
22 encompass all territory included in the Certificates of Convenience and Necessity of PWC  
23 and SWC. PSWID is maintaining this action on behalf of all citizens and property owners  
24 situated within the boundaries of the District.
- 25 II. PWC and SWC are Arizona Corporations providing domestic water service within their  
26 respective Certificates of Convenience and Necessity granted by the Arizona Corporation  
27 Commission (ACC). PWC and SWC are public service corporations within the meaning of  
28 *Article 15 § 2 of the Constitution of the State of Arizona*, doing business in the State of  
29 Arizona which holds Certificates of Convenience and Necessity from the Arizona

1 Corporation Commission to provide water service within the areas covered by said  
2 certificates.

3 III. That for the past several years neither PWC nor SWC have provided adequate water service  
4 within their respective Certificate of Convenience and Necessity. Examples of the problems  
5 include:

- 6 a. The imposition of Moratoria by the ACC on the connection of any new development to  
7 the communities of Pine or Strawberry.
- 8 b. The imposition of excessive water hauling charges assessed against the customers of  
9 PWC for purposes of importing water into the system.
- 10 c. The lack of reasonable lawful efforts to obtain additional water sources for the  
11 communities of Pine and Strawberry especially in light of the successful drilling of a  
12 number of deep wells in the area.
- 13 d. The failure of PWC and SWC to file all requisite and required reports concerning said  
14 water systems with appropriate governmental entities in a timely manner.
- 15 e. The failure to provide timely responses to complaints concerning adequacy of service,  
16 billing, and to make timely repairs to the physical facilities when needed.
- 17 f. The failure to cooperate with PSWID in providing full and complete access to the assets  
18 of PWC and SWC for purposes of evaluation of the same pending possible condemnation  
19 of the same.
- 20 g. The creation of public health hazards due to the failure to supply an adequate amount of  
21 water to the residents within PSWID.
- 22 h. The failure to actively pursue in a lawful manner the development of additional water  
23 resources for the communities of Pine and Strawberry.
- 24 i. That PSWID has brought an action in Eminent Domain in the Superior Court of the State  
25 of Arizona in and for the County of Gila to condemn the assets of PWC and SWC. That  
26 upon successful conclusion of the foregoing suit there will be no further need for a  
27 Certificate of Convenience and Necessity for PWC or SWC.

28 IV. The Arizona Supreme Court has long determined that "a public service corporation is under  
29 legal obligation to render adequate service impartially and without discrimination to all

members of the general public to whom its scope of operation extends.” *Veach v. City of Phoenix*, 102 Ariz. 195, 427 P.2d 335 (1967) citing *Wickenburg v. Town of Sabin*, 68 Ariz. 75, 200 P.2d 342 (1948). That the failure to provide adequate service to the communities of Pine and Strawberry constitutes a clear violation of this legal requirement.

V. That PWC and SWC have failed and intentionally refused to provide adequate supplies of clean water to the communities of Pine and Strawberry in accordance with the mandate of their Certificates of Convenience and Necessity.

VI. That the public interest, safety and welfare, in the communities of Pine and Strawberry are being negatively affected by the actions and inactions of PWC and SWC.

VII. That PWC and SWC are unable and unwilling to provide adequate water service at reasonable rates to the citizens and property owners in their certificated areas.

VIII. That heretofore the ACC has been reluctant to impose requirements upon PWC and SWC to drill additional deep wells or to revoke the Certificates of Convenience and Necessity of the foregoing companies. Now that PSWID is in full operation and is able to provide the requisite water service within the communities, there is an alternative to PWC and SWC being the sole water provider within their respective communities especially in light of PSWID having access to additional supplies of water not available to PWC and SWC to provide water for the communities of Pine and Strawberry.

IX. That the rates and tariffs of PWC and SWC allow for stringent conservation requirements because of the inability of PWC and SWC to provide adequate water within their respective Certificates of Convenience and Necessities.

X. That the citizens within the certificated area of PWC are subject to excessive water hauling charges because of the inability and unwillingness of PWC to develop additional water supplies or acquire the same as they are available.

WHEREFORE, PSWID hereby respectfully requests that this Commission:

1. Enter such Procedural Orders as are necessary to cause notice be given to all property owners and customers of PWC and SWC of proceedings on this Application.
2. Conduct such Hearings as may be necessary on this Application.

1 3. Enters such Orders as are necessary and proper to revoke the Certificates of Convenience and  
2 Necessity of PWC and SWC.

3 RESPECTFULLY SUBMITTED this 20<sup>th</sup> day of November, 2008.

4 GLIEGE LAW OFFICES, PLLC

5  
6   
7 John G. Gliege

8 Original and thirteen copies of the foregoing  
9 Mailed this 20<sup>th</sup> day of November, 2008 to:

10 Docket Control Center  
11 Arizona Corporation Commission  
12 1200 W. Washington Street  
13 Phoenix, AZ 85007

14 Copies of the foregoing  
15 Mailed this 20<sup>th</sup> day of November, 2008 to:

16 Fennemore Craig, P.C.  
17 Attn: Mr. Jay L. Shapiro  
18 3003 North Central Ave. Ste 2600  
19 Phoenix, AZ 85012-2913  
20 Attorneys for Pine & Strawberry Water Companies

21 Mr. Kevin Torrey, Esq.  
22 Legal Division  
23 Arizona Corporation Commission  
24 1200 W. Washington Street  
25 Phoenix, AZ 85007  
26  
27  
28  
29